

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

WARREN DEAN SINGLEY,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-12-0483-F
)	
JUSTIN JONES, et al.,)	
)	
Defendants.)	

ORDER

Magistrate Judge Gary M. Purcell has issued a Report and Recommendation, doc. no. 9 (the Report), recommending that plaintiff's motion for leave to proceed *in forma pauperis*, doc. no. 2, be denied and that this action be dismissed without prejudice unless plaintiff pays the full filing fee to the Clerk of the Court by May 29, 2012. Plaintiff filed a timely objection to the Report. Doc. no. 10. The court has reviewed all objected to matters *de novo*.

Upon review and as set out in more detail below, the court:

1) ACCEPTS, ADOPTS and AFFIRMS the Report's recommendations **IN PART**, and **DENIES** plaintiff's motion to proceed *in forma pauperis*;

2) MODIFIES the Report's recommendations **IN PART**; and

3) GRANTS IN PART plaintiff's objections to the Report.

1). The court **ACCEPTS, ADOPTS and AFFIRMS** the magistrate judge's recommendations to the extent that the Report recommends leave to proceed *in forma pauperis* be denied. The court agrees with the magistrate judge that plaintiff does not qualify for authorization to proceed without pre-payment of the fee because the papers filed with his motion show that he has sufficient financial resources to pay the filing fee. Plaintiff's motion to proceed *in forma pauperis* is **DENIED**. Doc. no. 2.

2). The Report's recommendation that this action be dismissed without prejudice absent payment of the filing fee by May 29, 2012, is **MODIFIED** as follows. The due date for payment is hereby **EXTENDED** to thirty days from the date of this order.

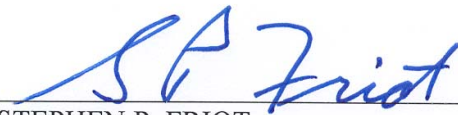
In that regard, the court notes, among plaintiff's other objections, plaintiff's statements that he has attempted to have the \$350.00 filing fee removed from his inmate mandatory savings account and paid to the court. Doc. no. 10, pp. 4-5. Attachments to his objections show that plaintiff has made at least some efforts to have the filing fee remitted from his inmate account. Doc. no. 10, ex. nos. 1, 2. One attachment indicates that when plaintiff requested remission of the fee, he was advised by staff that he must have a court order attached to his request showing the dollar amount required to be paid, with the envelope and disbursement, and that he must have the law library supervisor approve the disbursement. Doc. no. 10, ex. 2. (The court also notes that plaintiff has filed a separate motion seeking an order requiring officials at the James Crabtree Correctional Center to issue payment of the filing fee to the court, from his inmate account. Doc. no. 4.)

In these circumstances it is appropriate to extend the deadline for payment of the filing fee to thirty days from the date of this order, and to provide that to secure payment of the \$350.00 filing fee, plaintiff may give a copy of this order to the responsible official(s). The Deputy Clerk is **DIRECTED** to mail, along with plaintiff's personal copy of this order, two extra copies of this order and of the Report at doc. no. 9, so that plaintiff may conveniently provide a copy of both orders to the individual(s) at his institution who are responsible for remission of the fee from plaintiff's account.

Plaintiff is cautioned that absent timely payment of the fee, or absent another extension of time for good cause shown, this action will then be dismissed without prejudice as recommended in the Report.

3). Plaintiff's objection to the Report is **GRANTED IN PART**. His objection is granted to the extent that he requests a court order to present to officials which states that he is required to remit the \$350.00 filing fee to the Clerk of this Court to avoid dismissal of this action. His objection is also granted to the extent that his papers, liberally construed, implicitly request an extension of time within which to remit payment of the filing fee.

Dated this 17th day of May, 2012.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

12-0483p001.wpd